UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,401	02/12/2001	John Peterson	WH-10,909US	8497

7590 07/15/2004

Dennison Associates
Suite 301
133 Richmond Street West
Toronto, Ontario, M5H 2L7
CANADA

EXAMINER	
BANGACHON, WILLIAM L	
ART UNIT	**PAPER NUMBER**
2635	5

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

SE

Office Action Summary	Application No.	Applicant(s)	
	09/780,401	PETERSON, JOHN	
	Examiner	Art Unit	
	William Bangachon	2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 April 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3 and 5-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3 and 5-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. The objection to claim 7 is withdrawn.

Drawings

2. The objection to the drawings under 37 CFR 1.83(a) is withdrawn.

Specification

3. The objection to the specification as failing to provide proper antecedent basis for the claimed subject matter is withdrawn.

Claim Rejections - 35 USC § 112

4. The rejection of claim 4 under 35 U.S.C. 112, second paragraph, is withdrawn.

Response to Arguments

5. Applicant's arguments with respect to claims 1-3, 5-21, have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-4 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,908,604 (Jacob) in view of USP 4,855,746 (Stacy), and further in view of USP D442,564 (Ohkuma).

In claim 1, Jacob teach of a key fob (18) comprising a housing enclosing electrical components and a battery supply (76) with a plurality of actuation keys (20, 22) exposed in parts of said housing, said housing having a top surface with said plurality of keys in a key area of said top surface, said key fob further including a slidable shield attached to said housing and movable from a closed position covering said actuation keys to an open position where said keys are

exposed for actuation, said shield in said open position being located on said top surface {abstract; col. 2, lines 26-29}.

Jacob does not disclose expressly "an open and closed position" as claimed. In this case, Stacy is relied upon to teach of a slidable shield (18, 20) having open and closed positions for the purpose of covering and exposing different sets of keys on a remote control transmitter by movement of the slidable shield {Stacy, col. 2, lines 18-38}. The systems of Jacob and Stacy are analogous art because they are from same field of endeavor, remote control transmitters. The teaching of Stacy is desirable in the system of Jacob because it provides means to prevent accidental depression of the actuation keys of Jacob. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to use an open and closed position, as claimed, in the system of Jacob, as taught by Stacy, because this provides means of preventing accidental depression of the actuation keys of Jacob.

Jacob in view of Stacy does not disclose expressly the claimed **"said top surface has an area adjacent said key area of a size at least equal in size to said key area such that said shield in said open position overlies said adjacent area."** In this instance, Ohkuma is relied upon to teach such features as shown in figures 9 and 10. The teachings of Jacob in view of Stacy and Ohkuma are analogous art because they are in the same field of endeavor. That is, remote controllers having a slidable shield (Stacy, 18, 20) having open and closed positions for the purpose of covering and exposing different sets of keys on a remote control transmitter by movement of the slidable shield {Stacy, col. 2,

lines 18-38}. And Ohkuma shows a top surface having different sets of keys, and equal in size to its adjacent area (Ohkuma, figures 8-10). Obviously, these claimed features, as taught by Ohkuma, would have been obvious in the system of Jacob in view of Stacy because this provides means of preventing accidental depression of actuation keys. And having the area of the top surface adjacent said key area equal in size to said key area, as claimed, would just be a matter of design choice (depending on the number of keys used for actuation), as shown by Ohkuma, to one of ordinary skill in the art.

In claim 2, a key fob (18) as claimed in claim 1 wherein said keys are located in a recessed area of said top surface {Jacob, as shown in figure 1; Stacy, paragraph bridging cols. 2 and 3}.

In claim 3, a key fob as claimed in claim 1 wherein said actuation keys are marginally below said top surface and said top surface is generally rectangular in top view {Jacob, as shown in figure 1; Stacy, figure 2}.

In claim 4, a key fob as claimed in claim 1 wherein said top surface has an area adjacent said key area and at least equal in size to said area such that said shield in said open position overlies said adjacent area {Stacy, col. 2, lines 20-38}.

In claim 6, a key fob as claimed in claim 1 wherein shield is movable across said top surface and in said closed position only a limited strip border area of said top surface is exposed between said actuation keys and a lower edge of said key fob and in said open position only a limited strip border area of said top surface is exposed between said shield and a top edge of said key fob {Stacy, col. 2, lines 20-38}.

In claim 7, a key fob as claimed in claim 6 wherein said covers at least 40% of said to surface {Stacy, col. 2, lines 20-38}.

In claim 8, a key fob as claimed in claim 7 wherein said plurality of keys include at least 4 keys {Stacy, col. 2, lines 39-54}.

In claim 9, a key fob as claimed in claim 1 wherein said housing on opposed sides thereof includes two slide tracks which cooperate with said shield member to retain said shield member on said key fob and accommodate the sliding movement of said shield between said open and said closed position {Stacy, col. 2, lines 20-38}.

In claim 10, a key fob as claimed in claim 9 wherein each slide track is an elongate recess and said shield member includes on each side thereof inwardly extending slide members which are received and retained in said elongate recesses {Stacy, col. 2, lines 20-38}.

In claim 11, a key fob as claimed in claim 10 wherein said each slide track and the respective slide member cooperate to retain said shield member in said open or closed position {Stacy, col. 2, lines 20-38}.

9. Claims 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,908,604 (Jacob) in view of USP 4,855,746 (Stacy), and further in view of USP 5,956,625 (Hansen et al) and USP D442,564 (Ohkuma).

In claim 12 although Jacob in view of Stacy teach of a shield member, it does not disclose expressly "said shield member has a gently curved upper-surface and opposed side portions which extend downwardly and include said slide members". In this case, Hansen is relied upon to teach such features, as claimed {Hansen, figures 1-3; col. 3, lines 13-25}, for the purpose of preventing unintentional separation of parts {Hansen, paragraph bridging cols. 1 and 2}. The systems of Jacob and Hansen are analogous art because they are from same problem solving area, preventing unintentional actuation of electronic functions. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have a curved shield, as claimed, in the system of Jacob because this prevents unintentional separation of parts, as evidenced by Hansen.

In claim 13, said gently curved upper surface of said shield member allows resilient flexing of said shield member and during flexing said side portions flex outwardly {Hansen, col. 4, lines 50-57}.

In claims 14 and 17, said slide tracks include stationary cam members and said slide members when forced over said cam members cause said shield member to flex with said side portions moving outwardly {Hansen, paragraph bridging cols. 4 and 5}.

In claims 15, 16, and 19, said cam members cooperate with recesses in said slide members to releasably lock said shield member in said open or closed position {Hansen, col. 5, lines 11-19}.

In claim 18, a key fob as claimed in claim 17 wherein said housing and said shield member are injection molded plastic.

Claims 20 and 21 recite the limitation of claim 12 and therefore rejected for the same reason.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,908,604 (Jacob) in view of USP 4,855,746 (Stacy), and further in view of USP 5,388,691 (White) and USP D442,564 (Ohkuma).

In claim 5, Jacob does not disclose expressly "said top surface is slightly curved across the width thereof and said curve is consistent in the length of the top surface". In this case, White is relied upon to teach of curved surfaces for the purpose of making a container attractive, comfortable to handle and less likely to show through or puncture clothing {White, paragraph bridging cols. 2 and 3}. The systems of Jacob and White are analogous art because they are from same problem solving area, preventing accidental triggering of remote control functions. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have used curved surfaces in the system of Jacob, as claimed, because curved surfaces makes a container attractive, comfortable to handle and less likely to show through or puncture clothing, as evidenced by White.

11. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,908,604 (Jacob) in view of USP D461,047 (Peterson) and further in view of USP D442,564 (Ohkuma).

In claims 1-21, Jacob teach of a key fob (18) comprising a housing enclosing electrical components and a battery supply (76) with a plurality of actuation keys (20, 22) exposed in parts of said housing, said housing having a top surface with said plurality of keys in a key area of said top surface, said key fob further including a slidable shield attached to said housing and movable from a closed position covering said actuation keys to an open position where said

keys are exposed for actuation, said shield in said open position being located on said top surface {abstract; col. 2, lines 26-29}.

Jacob does not disclose expressly "an open and closed position" as claimed. In this case, Peterson is relied upon to teach of a slidable shield as shown in figures 1-8. The systems of Jacob and Peterson are analogous art because they are from same field of endeavor, key fob. The teaching of Peterson is desirable in the system of Jacob because it provides means to prevent accidental depression of the actuation keys of Jacob. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to use an open and closed position, as claimed, in the system of Jacob, as shown by Peterson, because this provides means of preventing accidental depression of the actuation keys of Jacob. Claims 2-21 are dependent claims and therefore rejected for the same reasons.

Jacob in view of Peterson does not disclose expressly the claimed **"said top surface has an area adjacent said key area of a size at least equal in size to said key area such that said shield in said open position overlies said adjacent area."** In this instance, Ohkuma is relied upon to teach such features as shown in figures 9 and 10. The teachings of Jacob in view of Peterson and Ohkuma are analogous art because they are in the same field of endeavor. That is, remote controllers having a slidable shield having open and closed positions for the purpose of covering and exposing different sets of keys on a remote control transmitter by movement of the slidable shield. And Ohkuma shows a top surface having different sets of keys, and equal in size to its

adjacent area (Ohkuma, figures 9 and 10). Obviously, these claimed features, as taught by Ohkuma, would have been obvious in the system of Jacob in view of Stacy because this provides means of preventing accidental depression of actuation keys. And having the area of the top surface adjacent said key area equal in size to said key area as shown by Ohkuma, would be a matter of design choice (depending on the number of keys used for actuation) to one of ordinary skill in the art.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Examiner Contact Information

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L Bangachon whose telephone number is 703-305-2701. The examiner can normally be reached on 4/4/10.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 703-305-4704. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9314 for regular and After Final formal communications. The examiner's fax number is 703-746-6071 for informal communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

William L Bangachon
Examiner
Art Unit 2635

July 12, 2004

MICHAEL HORABIK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600